

**LOS ANGELES COMMUNITY COLLEGE DISTRICT  
BOARD OF TRUSTEES  
SPECIAL MEETING  
INFRASTRUCTURE COMMITTEE  
Pierce College  
College Services Building Conference Room  
6201 Winnetka Avenue  
Woodland Hills, California 91371  
Wednesday, December 9, 2009  
9:00 a.m.**

Committee: Nancy Pearlman, Chair; Mona Field; Tina Park, Alternate

Absent: Miguel Santiago

Participants: Phillip Boutte, FEI Enterprises, Inc.; Maria Coptolano, FEI Enterprises, Inc.; Todd Cozolino, Build—LACCD; Mr. Larry Eisenberg, ESC; Gabriel Fedida, FEI Enterprises, Inc.; Cristino Gomez, FEI Enterprises, Inc.; Roger Heyman, Heyman Densmore LLP; Robert Klein, Attorney for FEI Enterprises, Inc.; Tomas Kuehn, Build—LACCD; Richard Licerio, Laborers International Union; Benito Martinez, Laborers International Union; Veronica Martinez, Build—LACCD; Paul Nieman, Pierce College; David Orbach, Orbach, Huff & Suarez; Simona Pavahll, FEI Enterprises, Inc.; Nick Quintanilla, Gateway Science & Engineering; Jose Ramirez, Laborers International Union; Richard Reed, International Brotherhood of Electrical Workers (IBEW) Local 11; Fabiola Rivera, Orbach, Huff & Suarez; Joseph Santiesteban, Swinerton Management and Consulting; Patrick Schee, Gateway Science & Engineering; Charles Sellers, Gateway Science & Engineering; Hope Singer, Bush Gottlieb; Curtis Smith, Pierce College; Werner Wolf, Build—LACCD

Trustee Pearlman called the meeting to order at 9:01 a.m.

Ms. Camille Goulet explained what will occur during today's debarment hearing. She introduced Mr. Roger Heyman. She indicated that she and Mr. Heyman are acting as counsel to the Committee and sitting as hearing officers separate and apart from the counsel putting forward the recommendation of staff for the debarment. She recommended that the individuals who are participating in the hearing introduce themselves with the recognition that members of the public are allowed to attend without identifying themselves. She further recommended that the Court Reporter swear in all of the witnesses at one time.

The following individuals introduced themselves:

Mr. Robert Klein, Mr. Gabriel Fedida, Mr. Richard Licerio, Mr. Benito Martinez, Mr. Jose Ramirez, Mr. Phillip Boutte, Ms. Veronica Martinez, Mr. Todd Cozolino, Mr. Tomas Kuehn, Mr. Werner Wolf, Mr. Patrick Schee, Mr. Joseph Santiesteban, Mr. Paul Nieman, Mr. Larry Eisenberg, Ms. Fabiola Rivera, and Mr. David Orbach.

**PUBLIC SPEAKERS**

None.

**BRIEFING ON LEGAL ISSUES OF DEBARMENT AND THE CONDUCT OF THE HEARING PROCESS**

Ms. Goulet indicated that each side will have a maximum of 2-1/2 hours of presentation time and that each side will have the opportunity to give an opening statement not to exceed 10 minutes, which is subtracted from the 2-1/2 hours of presentation time. She recommended that the LACCD give its presentation first.

Mr. David Orbach indicated that after hearing and reviewing the evidence presented today, the Committee will be required to decide if FEI Enterprises, Inc. is trustworthy. He presented the arguments and evidence on behalf of the staff recommendation in support of debarment.

Mr. Robert Klein presented the arguments and evidence against the debarment of FEI Enterprises, Inc.

## HEARING ON PROPOSED DEBARMENT OF CONTRACTOR

Ms. Goulet recommended that each side articulate its intended witnesses and that those witnesses be requested to stand up so that the Court Reporter can swear them in.

The Court Reporter swore in the following witnesses:

Mr. Patrick Schee, Mr. Joseph Santiesteban, Mr. Richard Reed, Ms. Veronica Martinez, Mr. Richard Licerio, Mr. Phillip Boutte, Mr. Gabriel Fedida, and Mr. Robert Klein.

Mr. Orbach introduced the documents from FEI Enterprises, Inc. He summarized Exhibit A with respect to the plaintiffs' allegations. He indicated that the allegations were presented to a jury in Los Angeles County in November 2009. Based upon the evidence, the jury rendered its verdict, a certified copy of which is presented as Exhibit B. He also summarized Exhibits C, D, E, F, and G.

Mr. Klein expressed his objection that the documents are misleading.

Ms. Goulet stated that Mr. Klein should reserve his comments until Mr. Orbach has completed his presentation.

Mr. Orbach summarized Exhibits H, I, J, K, L, M, N, and W.

Mr. Orbach cross-examined Mr. Patrick Schee regarding a construction project at Los Angeles Mission College (LAMC) with respect to damage that was sustained on March 20, 2009.

Mr. Klein cross-examined Mr. Schee regarding the construction project at LAMC.

There being no objection, the Special Meeting recessed at 10:20 a.m.

The Special Meeting reconvened at 10:26 a.m.

On roll call, the following Committee members were present: Nancy Pearlman, Chair; Mona Field; and Tina Park, Alternate.

Mr. Orbach cross-examined Mr. Joseph Santiesteban regarding a hazardous condition at the South of Mall construction project at Pierce College.

Mr. Klein cross-examined Mr. Santiesteban regarding the South of Mall construction project at Pierce College.

There was discussion regarding the definition of "fraud" as it relates to the proposed debarment of the contractor.

Mr. Klein continued his cross-examination of Mr. Santiesteban.

Mr. Orbach cross-examined Mr. Richard Reed regarding FEI Enterprises, Inc. He inquired as to what types of allegations IBEW made in the lawsuits that it filed against FEI Enterprises, Inc.

For the record, Mr. Klein objected that this question is irrelevant.

Mr. Reed responded that the allegations in the lawsuits were that FEI Enterprises, Inc. did not pay fringe benefit contributions to the workers.

Mr. Orbach continued his cross-examination of Mr. Reed.

Mr. Klein cross-examined Mr. Reed regarding the lawsuits against FEI Enterprises, Inc.

There being no objection, the Special Meeting recessed at 12:05 p.m.

The Special Meeting reconvened at 12:08 p.m.

On roll call, the following Committee members were present: Nancy Pearlman, Chair; Mona Field; and Tina Park, Alternate.

Ms. Goulet indicated that she has distributed to Counsel and the Trustees copies of the document that was provided to the witness. This item has been labeled as Exhibit 35.

Mr. Klein continued his cross-examination of Mr. Reed.

There was discussion regarding the grievance process against FEI Enterprises, Inc.

Ms. Goulet recommended that the Committee recess the meeting until 1:30 p.m. She informed the Trustees that this is a Ralph M. Brown Act Committee; therefore, it would be inappropriate for the Trustees to discuss this case during lunch.

There being no objection, the Special Meeting recessed for lunch at 12:25 p.m.

The Special Meeting reconvened at 1:38 p.m.

On roll call, the following Committee members were present: Nancy Pearlman, Chair; Mona Field; and Tina Park, Alternate.

Ms. Goulet indicated that California Labor Code Section 1777.1 that was provided by Mr. Klein has been labeled as Exhibit 36.

Ms. Fabiola Rivera cross-examined Ms. Veronica Martinez regarding alleged violations of labor law requirements by FEI Enterprises, Inc.

Mr. Klein cross-examined Ms. Martinez regarding the workers who have submitted letters about not being paid for their work, which are included under Exhibit O.

There being no objection, the Special Meeting recessed at 2:25 p.m.

The Special Meeting reconvened at 2:31 p.m.

On roll call, the following Committee members were present: Nancy Pearlman, Chair; Mona Field; and Tina Park, Alternate.

The Court Reporter swore in Ms. Maria Coptolano.

Mr. Klein cross-examined Ms. Coptolano regarding the hiring and payroll processes at FEI Enterprises, Inc.

Mr. Klein cross-examined Mr. Nick Quintanilla regarding the contracting work of FEI Enterprises, Inc.

Mr. Orbach cross-examined Mr. Quintanilla regarding his efforts to obtain various documents from FEI Enterprises, Inc.

Mr. Klein further cross-examined Mr. Quintanilla.

Mr. Klein cross-examined Mr. Charles Sellers regarding the work of FEI Enterprises, Inc.

Mr. Klein cross-examined Mr. Cristino Gomez regarding his work on the South of Mall construction project at Pierce College.

Mr. Orbach cross-examined Mr. Gomez regarding safety procedures at the construction project.

There being no objection, the Special Meeting recessed at 3:24 p.m.

The Special Meeting reconvened at 3:27 p.m.

On roll call, the following Committee members were present: Nancy Pearlman, Chair; Mona Field; and Tina Park, Alternate.

Mr. Klein cross-examined Mr. Richard Licerio regarding the relationship between the Southern California District Counsel of Laborers and FEI Enterprises, Inc.

Mr. Klein cross-examined Ms. Simona Pavahll regarding the payroll process at FEI Enterprises, Inc.

Mr. Orbach cross-examined Ms. Pavahll regarding the construction project at LAMC.

Mr. Klein cross-examined Mr. Phillip Boutte regarding the payroll for the workers at the LAMC and Pierce College construction projects.

Mr. Orbach cross-examined Mr. Boutte regarding the workers at the LAMC construction project.

Mr. Klein cross-examined Mr. Gabriel Fedida regarding a case that involved the Los Angeles Unified School District (LAUSD).

Mr. Orbach and Mr. Klein presented their closing arguments.

#### DISCUSSION AND RECOMMENDATIONS FOR FURTHER ACTION

Ms. Goulet indicated that the notice of proposed debarring of FEI Enterprises, Inc. and any organization of which Mr. Fedida is a principal for a period of up to five years from participating in bidding, contracting, or subcontracting on any District project. The Committee will debate and present its recommendation to the Board of Trustees as a whole. When the Committee makes its principle decision, it would be her recommendation that the Committee delegate to Counsel the responsibility to prepare a draft decision for review by the Chair prior to it being presented to the Board of Trustees as a whole.

There was discussion regarding the process for the Committee to prepare and present its decision to the full Board.

Motion by Trustee Field, seconded by Trustee Park, to recommend to the full Board that FEI Enterprises, Inc. and any firm of which Mr. Fedida is a principal be debarred from bidding, contracting, or subcontracting on any District project for four years.

*APPROVED: 3 Ayes*

Trustee Pearlman designated Trustee Park to review the draft language to be submitted to the Board.

Ms. Goulet indicated that it is the consensus of the Committee that Trustee Park will have this opportunity to review the draft to make sure that it is a satisfactory reflection of the Committee's recommendation to the Board.

#### ADJOURNMENT

Motion by Trustee Park, seconded by Trustee Field, to adjourn.

Without objection, so ordered.

The Special Meeting adjourned at 5:29 p.m.